

DONNY RAY WELCH	§	
v.	§	CIVIL ACTION NO. 5:11cv200
WARDEN DAWN GROUNDS, ET AL.	§	

The Plaintiff Donny Welch, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights in the Texas Department of Criminal Justice, Correctional Institutions Division. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

As Defendants in his lawsuit, Welch names TDCJ officials Brad Livingston, Dawn Grounds, Jeffrey Catoe, Michael Collum, Rodger McDonald, Herbert Barron, Jeffrey Childs, Jason Smith, Derek Sartin, Lean Johnson, Charles Thomas, Sandra Drager, Eddie Gutierrez, Alan Chambers, Joshua Armstrong, Tanya Peacock, Dennis Martin, Robert Lyon, Kelley May, Deborah Abernathy, Karen Norris, and an unknown defendant identified as “Jane Doe.” Of these defendants, Livingston has since been dismissed.

Welch complains generally that the Defendants were deliberately indifferent to his safety and failed to protect him from harm. The Defendants, except for Livingston and the unknown defendant, filed a motion for summary judgment accompanied by extensive documentation. Welch filed a response to this motion, but the response said only that he is mentally ill and does not understand the discovery procedures of the litigation. Welch did attach documentation to his response

consisting of letters and grievances which he had written as well as disciplinary cases which he had received.

After review of the pleadings and the summary judgment evidence, the Magistrate Judge issued a Report recommending the motion for summary judgment be granted and the lawsuit be dismissed. Welch received a copy of this Report on February 25, 2013, but has filed no objections thereto; accordingly, he is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law."). It is accordingly


ORDERED that the Report of the Magistrate Judge (docket no. 45) is hereby ADOPTED as the opinion of the District Court. It is further

ORDERED that the Defendants' motion for summary judgment (docket no. 27) be and hereby is GRANTED and that the above-styled civil action is hereby DISMISSED with prejudice. It is further

ORDERED that any and all motions which may be pending in this action are hereby DENIED.

It is SO ORDERED.

SIGNED this 22nd day of March, 2013.


MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE